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Michigan Association of Health Plans

Michigan Association of Health Plans Testimoy
Public Employee Health Benefits Act Reform

My name is Jeff Romback and I am a Deputy Director with the Michigan Association of Health Plans (MAHP). MAHP represents 13 health insurers with 3.1million insured in the State of Michigan. We sincerely appreciate this Committee's time and attention to this important matter.

Our goals at MAHP inlcude expanding coverage access to valuable, affordable, and competitive health insurance options which improve the health outcomes of Michiganders. Our goal of a competitive health insurance market is strongly supported by Representative Kelly's bill to modernize the Public Employee Health Benefits Act. MAHP and our Member Plans strongly support this bill which will help level an uncompetitive playing field, align data transparency in the public sector to the private sector, in time for all health insurers to provide more competitive bids in the next bid cycle. Our Plans will elaborate on what their experiences have been under the Act.

Currently, the public school health insurance market is being dominated by a single carrier. Their marketshare of School Districts within the member's of this Committee's districts is 79%. Clearly, there is a lack of effective competition in this market. Improvements to the quality of data, including synchronized claims and enrollment data in a usable format, can assist non-incumbant plans in making competitive bids which can save entities regulatied by this Act money and provide a choice in health insurer which may better suit their needs. At this time, the asymmetry in data availability makes this very difficult.

The act of disseminating this level of de-identified, sensitive data is a common practice in the health insurance industry. As employers in the private sector seek new insurers they receive claims and enrollment information to share with their agent. This information is securely shared, in compliance with HIPAA, with all bidders who've been given the opportunity to bid. This secure process can be transferred into this market without concern. Passing this legislation will bring the public sector's practices in line with those practices in the private sector. Each plan in the market has the ability to produce this level of data and transmit it securely in order to solicit bids.

The timing of this bill is espeically prudent as 91% of the 58 districts we reviewed have Collective Bargaining Agreements which have expired or will expire by 2020. This provides a great opportunity for the health insurance provider to be re-bid. Our Plans believe having this additional data can make this a more competitive market which provides more affordable care at a lower cost.

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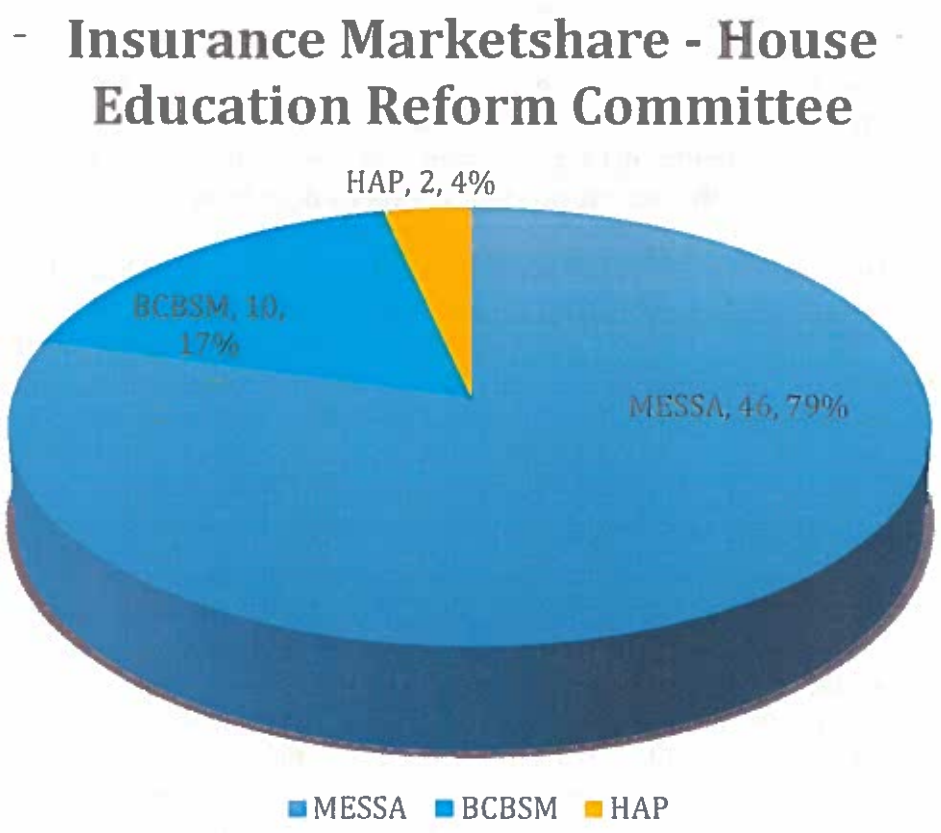
In short, MAHP strongly believes our path to a transparent, competitive market is made clearer with these much-needed updates to the Public Employee Health Benefits Act. We thank Represenative Kelly for introducting this Bill and this Honorable Committee for partnering with MAHP on improving competition within a market our Plans are very proud to serve.

I'd be happy to answer any questions from this Committee at this time or after any others have testified.



*Source: PA 106 Transparency Reports

Public Employee Health Benefit Act

The Public Employees Health Benefit Act (PEHBA), Act 106 of 2007, was enacted to provide for the release of certain information by public employers to enable groups to obtain health coverage for their employees at reasonable prices. The amendments proposed by HB 6537 are intended to provide for the release of more complete information in more usable formats to allow public employers to obtain better health coverage for their employees without violating HIPAA privacy requirements.

Section 124.85(6) of the PEHBA (renumbered (7) in HB 6537) states "The claims utilization and cost information required under this section **shall include only de-identified health information** as permitted under [HIPAA], Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, and **shall not include any protected health information** as defined [under HIPAA], Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164." Emphasis added.

According to the HIPAA Privacy Rule, "De-Identified Health Information" is described as follows:

> There are no restrictions on the use or disclosure of de-identified health information. De-identified health information neither identifies nor provides a reasonable basis to identify an individual. There are two ways to de-identify information; either: (1) a formal determination by a qualified statistician; or (2) the removal of specified identifiers of the individual and of the individual's relatives, household members, and employers is required, and is adequate only if the covered entity has no actual knowledge that the remaining information could be used to identify the individual.

In its analysis of the PEHBA as originally enacted, the Department of Financial and Insurance Services (DIFS) states on its website that "[T]he claims utilization and cost information described in this act must be "de-identified" health information [which is] permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)." In other words, compliance with the PEHBA conforms with HIPAA requirements because it requires any health information released to be "de-identified." By using groups of no fewer than 50 employees, it is impossible to link the health information with specific individuals and, therefore, "identify" individuals by their health information.

Furthermore, HIPAA permits "protected health information" to be disclosed for treatment, payment and health care operations activities. According to the HIPAA Privacy Rule, **"[p]ayment encompasses activities of a health plan to obtain premiums**, determine or fulfill responsibilities for coverage and provision of benefits, and furnish or obtain reimbursement for health care delivered to an individual..." Emphasis added.

The amendments to the PEHBA as proposed in HB 6537 are intended to revise the types of claims and utilization information provided and the way the data is presented to enable groups to obtain better premium quotes and to allow groups of 50 or more employees to participate in the solicitation of premium quotes without violating HIPAA privacy requirements.